

REMARKS

This Response serves as the submission accompanying Applicant's Request for Continued Examination (RCE) filed pursuant to 37 C.F.R. §1.114. By final Office Action mailed August 23, 2005, pending claims 3-19 stand withdrawn and pending claims 1-2 and 20-52 stand rejected, reconsideration of which is respectfully requested in view of the following remarks. Claims 1-52 are now pending, of which claims 3-19 stand withdrawn.

Rejection Under 35 U.S.C. §103(a)

Claims 1-2 and 20-52 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pallenberg et al. (U.S. Patent No. 5,538,945), Pickart (U.S. Patent No. 4,760,051), Pickart (U.S. Patent No. 5,118,665), Kelly ("The Role of Glucosamine Sulfate and Chondroitin Sulfates in the Treatment of Degenerative Joint Disease", *Alternative Medicine Review* 3:1 27-39 (1998)) and Atrium Biotechnologies (product information brochure) for the reasons set forth on pages 2-4 of the Office Action.

More specifically, the Examiner states that Pallenberg and both Pickart references disclose the peptide copper complexes of the present invention, and the use of such complexes for the treatment of (i) hair loss and (ii) wound healing or inflammation, respectively. However, the Examiner recognizes that none of the Pallenberg or Pickart references teach the combination of such complexes with a metalloproteinase inhibitor, as recited in the pending claims. Accordingly, the Examiner relies upon Kelly and Atrium Biotechnologies to cure this deficiency. In this regard, the Examiner is of the opinion that Kelly and Atrium Biotechnologies teach that cartilage extracts from shark, including MDI Complex, consist of glycosaminoglycans. Furthermore, it appears that the Examiner relies upon Kelly and Atrium Biotechnologies as teaching that such cartilage extracts have anti-inflammatory activity. In view of the foregoing, the Examiner concludes that it would have been obvious to modify the compositions of Pallenberg by the inclusion of glycosaminoglycans derived from fish or shark cartilage, as taught by Kelly, due to the common anti-inflammatory activity of such compositions pursuant to MPEP 2144.06.

Applicant respectfully disagrees with the Examiner's reading of Kelly and Atrium Biotechnologies. Neither Kelly nor Atrium Biotechnologies teach that (i) cartilage extracts, such as MDI Complex, or (ii) all glycosaminoglycans, in general, have anti-inflammatory activity. To the contrary, Kelly teaches that chondroitin sulfates, which are one class of glycosaminoglycans, are required for the formation of proteoglycans found in joint cartilage and, similar to glucosamine sulfate, do not inhibit the enzymes involved in inflammation (*see, e.g.*, the fifth paragraph on page 29 and the first three full paragraphs on page 33 of Kelly). Accordingly, it is arguable that, under the Examiner's rationale (*i.e.*, the combination of components having similar utility), Kelly would actually teach away from the claimed composition. With respect to Atrium Biotechnologies, such reference contains no mention of anti-inflammatory activity at all.

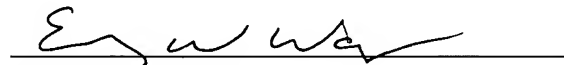
Since the present rejection is premised on the common anti-inflammatory activity of the claimed peptide copper complexes and MDI Complex, or other metalloproteinase inhibitors obtained from cartilage, Applicant respectfully requests that the Examiner provide support for the assertion that such metalloproteinase inhibitors were recognized in the art as having anti-inflammatory activity as required by MPEP 2144.06. In the absence of such support, Applicant submits that the cited references fail to establish a *prima facie* case of obviousness against claims 1-2 and 20-52, and request that this ground of rejection be withdrawn.

In view of the above remarks, allowance of the pending claims is respectfully requested. A good faith effort has been made to place this application in condition for allowance. However, should any further issue require attention prior to allowance, the Examiner is requested to contact the undersigned at (206) 622-4900 to resolve the same. Furthermore, the Commissioner is authorized to charge any additional fees due by way of this Response, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

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